

By: Representative Compretta

To: County Affairs

HOUSE BILL NO. 1291

1 AN ACT TO AMEND SECTION 19-5-103, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE BOARD OF SUPERVISORS OF ANY COUNTY TO ADOPT AND
3 ENFORCE ORDINANCES REGULATING MASSAGE PARLORS AND PUBLIC DISPLAYS
4 OF NUDITY; TO AMEND SECTION 97-29-65, MISSISSIPPI CODE OF 1972, TO
5 PROHIBIT ANY ESTABLISHMENT WHERE PUBLIC DISPLAYS OF NUDITY ARE
6 PRESENT TO BE LOCATED WITHIN ONE-FOURTH MILE OF ANY BUILDING,
7 STRUCTURE OR OTHER FACILITY USED AS A RESIDENCE; AND FOR RELATED
8 PURPOSES.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

10 **SECTION 1.** Section 19-5-103, Mississippi Code of 1972, is
11 amended as follows:

12 19-5-103. (1) In accordance with the provisions of Section
13 19-3-41, providing that additional powers may be conferred upon
14 the boards of supervisors, the board of supervisors of any county
15 may promulgate, adopt and enforce ordinances which are necessary
16 and reasonable for the protection of public health and the
17 maintenance of order in relation to the advertisement, the
18 offering of services and the dispensation for compensation of
19 personal services in establishments known as massage parlors and
20 may promulgate, adopt and enforce ordinances which are necessary
21 and reasonable for the protection of public health and the
22 maintenance of order in relation to public displays of nudity.

23 (2) For the purposes of this section the term "massage
24 parlor" shall mean any premises where a person manipulates, rubs,
25 caresses, touches, massages, kneads, palpates or otherwise
26 physically contacts the body or part or area of the body of
27 another person. The term "massage parlor" shall not include
28 gymnasias or other premises wherein persons engage in bona fide
29 athletic or conditioning activities, duly licensed barbershop,
30 beauty parlor, chiropractic clinic or other premises of a person

31 practicing a vocation or profession regulated and licensed by the
32 state.

33 For the purposes of this section the term "nudity" means
34 uncovered, or less than opaquely covered, postpubertal human
35 genitals, pubic areas, the postpubertal human female breast below
36 a point immediately above the top of the areola, or the covered
37 human male genitals in a discernibly turgid state. For purposes
38 of this definition, a female breast is considered uncovered if the
39 nipple only or the nipple and areola only are uncovered.

40 For the purposes of this section the term "public display"
41 means the exposing, exhibiting, revealing, or in any fashion
42 displaying the nude human body or any representation thereof in
43 any location in such a manner that it may be readily seen by the
44 public by normal unaided vision and the term also means any play,
45 motion picture, dance, show or other presentation, whether
46 pictured, animated or live, performed before an audience and which
47 in whole or in part depicts or reveals nudity or sexual conduct.

48 (3) Ordinances adopted pursuant to this section shall
49 comport with the elements of due process and shall include but not
50 be limited to specificity, adequate notice, right to hearing,
51 right to counsel, right to appeal adverse findings to a judicial
52 authority and penalties rationally related to prohibited acts.

53 (4) Boards of supervisors proposing such ordinances shall
54 publish and post notice of such intentions not less than twenty
55 (20) days prior to the holding of a public hearing whereat the
56 purposes and substance of such ordinances shall be fully
57 discussed.

58 **SECTION 2.** Section 97-29-65, Mississippi Code of 1972, is
59 amended as follows:

60 97-29-65. It shall be unlawful to locate within one-fourth
61 (1/4) of one (1) mile of any church, school, kindergarten,
62 courthouse or any building, structure or other facility used as a
63 residence any establishment where public displays of nudity are

64 present. Any person found guilty of violating this section shall,
65 upon conviction, be fined not more than Ten Thousand Dollars
66 (\$10,000.00) or imprisoned for not more than one (1) year, or
67 both.

68 For the purposes of this section the term "nudity" and
69 "public display" shall have the same meanings as those terms are
70 defined in Section 19-5-103.

71 **SECTION 3.** This act shall take effect and be in force from
72 and after July 1, 2005.